

**UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

MIDWESTERN CONSULTING, LLC,

Plaintiff,

v.

Case No. 12-10600

THE ATWELL GROUP, LLC, et al.,

Defendants.

ORDER GRANTING DEFENDANTS' MOTION TO DISMISS

Plaintiff initiated this case in the 15th Judicial District Court of the State of Michigan on December 8, 2011, asserting claims of unjust enrichment and conversion based on Defendants' alleged improper use of Plaintiff's topographic and boundary survey. Defendants timely removed the matter, stating that Plaintiff's complaint involved copyright claims over which this court has exclusive jurisdiction under 28 U.S.C. § 1338(a). Thereafter, Defendants filed a motion to dismiss, arguing that Plaintiff's state law claims were preempted by the United States Copyright Act, 17 U.S.C. § 106, and that Plaintiff's complaint should therefore be dismissed under Federal Rule of Civil Procedure 12(b)(6) for failure to state a claim. Upon initial review of the motion, the court found it to be well-founded. Moreover, Plaintiff did not timely respond to that motion, and in two subsequent telephone conferences with the court Plaintiff's counsel indicated that Plaintiff had elected not to pursue this matter. As a result, counsel for all parties agreed that the motion to dismiss would be granted and the case dismissed with prejudice. Accordingly,

IT IS ORDERED that Defendants' motion to dismiss [Dkt. # 3] is GRANTED and this matter is DISMISSED WITH PREJUDICE.

s/Robert H. Cleland
ROBERT H. CLELAND
UNITED STATES DISTRICT JUDGE

Dated: April 24, 2012

I hereby certify that a copy of the foregoing document was mailed to counsel of record on this date, April 24, 2012, by electronic and/or ordinary mail.

s/Lisa Wagner
Case Manager and Deputy Clerk
(313) 234-5522